93-689

FILED
OCT 21 1993
OFFICE OF THE CLERK

CASE NO. 93-3122

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1993

JACK P. QUINN,

PETITIONER

V.

STATE OF KANSAS

AND

DISTRICT COURT JUDGE

TRACY D. KLINGINSMITH,

RESPONDENT

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

JACK P. QUINN

908 LINCOLN

WAMEGO, KANSAS 66547

PRO SE

OCTOBER 1993

QUESTIONS

1. Does District Court Judge Tracy D. Klinginsmith of Pottawatomie County, Kansas abide by the rules of the Constitution of the United States of America by denying Jack P. Quinn the right to a trial by jury?
2. Is Kansas Workmens Compensation unconstitutional when an injured person is denied a trial by jury?
3. Can a Federal Judge, Richard D. Rogers, legally rule on a case he was involved in as an attorney in the year 1950?
4. Does the District Court of Pottawatomie, County, Kansas, have a legal right to hold hearings on the Case No. 89 P 26, in the matter of the Estate of Mary Jane Quinn, deceased, without the court notifying Jack P. Quinn, the Executor of the Estate, as to the day and the time the hearings were to be held in the Courthouse in Westmoreland, Kansas?
5. Can the District Court of Pottawatomie County, Kansas, legally hold court hearings without a Court Reporter present at those hearings?

6. Why did not the elected Pottawatomie County Attorney Gary F Conklin investigate the attempted homicide of Jack P. Quinn on August 31, 1971, at the construction site of the McCall Pattern Company on the east edge of Manhattan, Kansas?

7. Can the District Court of Pottawatomie County, Kansas, legally hold hearings in the Courthouse at Westmoreland, Kansas, without the court notifying all of the heirs of the Estate of Mary Jane Quinn, deceased, Case No. 89 P 26, as to the day and the time of day the hearings were to be held?

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Jack P. Quinn prays that a writ of certiorari issue to review the judgment of the Circuit Court of Appeals for the Tenth Circuit entered on April 16, 1993, with appeal to overrule dismissal of the case, Jack P. Quinn, Plaintiff, versus State of Kansas and District Court Judge Tracy D. Klinginsmith of Pottawatomie County, Kansas, Defendants, Case No. 93-4041-RDR. The case was dismissed by United States District Judge Richard D. Rogers* in the United States District Court for the District of Kansas, without a hearing, or a trial by jury as requested, April 6, 1993. On August 20, 1993, the Circuit Court of Appeals for the Tenth Circuit, AFFIRMED*, the district court's judgment of United States District Judge Richard D. Rogers*.

JURISDICTION

Jack P. Quinn is an American citizen of the United States of America and as such is guaranteed a trial by jury by the Constitution of the United States of America as follows;

AMENDMENT VII.
JURY TRIAL IN CIVIL CASES

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right to trial by jury shall be preserved, and no fact tried by jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

Section 2. Jurisdiction Of
United States Courts

The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to controversies to which the United

States shall be a party; to controversies between two or more states; between a state and citizens of another state; between citizens of different states; between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens or subjects.

Article VI. General Provisions

This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, any thing in the constitution or laws of any state to the contrary notwithstanding.

Questions About The Quinn Estate

On December 22, 1950, Charles Warren Quinn suffered a series of strokes when Charles Warren Quinn was

released from the hospital he was completely paralyzed over the left side of his body and would remain paralyzed and bed ridden for the rest of his life, Charles Warren Quinn died October 13, 1962. Charles Warren Quinn and Mrs. Charles Warren Quinn also known as, Mary Jane Quinn were over $26,000.00 in debt before Charles Warren Quinn suffered his series of strokes.

When Charles Warren Quinn's oldest sons, Jerry Patrick Quinn, Thomas Paul Quinn and Bill Peter Quinn were told that Charles Warren Quinn was over $26,000.00 in debt and was paralyzed and bed ridden for the rest of his life. The three sons just turned and walked out of the house they refused to lift one finger or spend one penny to help their own mother and father. Jack P. Quinn took over and was the sole provider for taking care of Charles Warren Quinn and Mrs. Charles Warren Quinn also known as Mary Jane Quinn. In the year 1958 or 1960 Charles Warren Quinn did start receiving a small Social Security check every month of about $200.00. On January 3, 1980 still under the care of her son Jack P. Quinn, Mary Jane Quinn suffered a series of strokes at 908 Lincoln, Wamego, Kansas.

When released from the hospital, Mary Jane Quinn was returned to the care of Jack P. Quinn and remained under his care until November 8, 1982, when Jack P. Quinn was forced to have his mother, Mary Jane Quinn admitted as a patient to the College Hill Skilled Nursing Center, 2423 Kimball, Manhattan, Kansas. Mary Jane Quinn could no longer sit up by herself, she could not stand up by herself, she could not walk by herself and she could no longer feed herself. Mary Jane Quinn remained as a patient at the College Hill Skilled Nursing Center, 2423 Kimball, Manhattan, Kansas, until her death October 16, 1988.

While Mary Jane Quinn was a patient at the College Hill Skilled Nursing Center, 2423 Kimball, Manhattan, Kansas, Jack P. Quinn had the Kellstrom Pharmacy, 1860 Claflin, Manhattan, Kansas report to the authorities about illegal drug traffic at the College Hill Skilled Nursing Center. Mary Jane Quinn had Medicare Insurance but they refused to pay for her care at the College Hill Skilled Nursing Center.

In November, 1988, Jack P. Quinn hired J. R. Russell, Legal Counselor and Attorney at Law, 815 Ann Avenue, Kansas City, Kansas 66101, to be Jack P. Quinn's attorney in

representing Jack P. Quinn in the matter of the Estate of Mary Jane Quinn, Deceased, Case No. 89 P 26. When Jack P. Quinn hired J.R. Russell to be Jack P. Quinn's attorney I told him that I had taken care of my mother and my father since December 22, 1950 and that I wanted him to file a claim for me against the Estate of Mary Jane Quinn, Deceased, Case No. 89 P 26 and produced photocopies of many of the canceled checks, by no means were anywhere near the total amount of money that I had paid on the mortgaged land and the cost for caring for my mother and father since December 22, 1950, until my mother's death on October 16, 1988. I told J. R.. Russell there was a will but it was not a valid will and gave the will to J. R. Russell. J. R. Russell published the will* but never did file my claim against the Estate of Mary Jane Quinn, Deceased, Case No. 89 P 26.

In August of the year 1989, Jack P. Quinn was notified to appear in the District Court of Pottawatomie County, Kansas, in the courthouse at Westmoreland, Kansas. The District Court Judge Tracy D. Klinginsmith, Jerry P. Quinn and two nieces the daughters of deceased

brother, Thomas Paul Quinn were there in an effort to remove Jack P. Quinn as Executor of the Estate of Mary Jane Quinn.

The District Court Judge Tracy Klinginsmith let these people call Jack P. Quinn a lair and made many false statements and allegations against Jack P. Quinn. Jack P. Quinn's lawyer was present but refused to say much so Jack P. Quinn asked to be able to take the witness stand. My lawyer, J. R. Russell tried to keep Jack P. Quinn from taking the witness stand. After Jack P. Quinn had taken the oath to tell the truth, Jack P. Quinn only said a few words when the District Court Judge Tracy D. Klinginsmith ordered Jack P. Quinn to shut up. Is this the United States of America when a person is not allowed to take the witness stand and testify in their own defense?

Jack P. Quinn filed a request for a trial by jury in the District Court of Pottawatomie County, Kansas, on March 27, 1990, in an effort to settle all claims against the Estate of Mary Jane Quinn and a list of witnesses to take the witness stand by subpoena.* The District Court Judge Tracy D. Klinginsmith notified Jack P. Quinn that on the 17th day of

May, 1990, there would be a pretrial hearing but no witnesses would be subpoenaed. One witness agreed to testify voluntarily but what was supposed to be a pretrial hearing was no hearing at all. The District Court Judge Tracy D. Klinginsmith refused to let the voluntary witness take the witness stand in fact the District Court Judge Tracy D. Klinginsmith ordered the voluntary witness to be removed from the court room area. The voluntary witness left the court room area voluntarily. Jack P. Quinn's attorney J. R. Russell never appeared at the pretrial hearing.

Jack P. Quinn was notified to appear in the District Court in the Courthouse in Westmoreland, Kansas, on July 5, 1990. On the 5th day of July, 1990, the District Court Judge Tracy D. Klinginsmith removed Jack P. Quinn from being the Executor of the Estate of Mary Jane Quinn, Deceased, Case No. 89 P 26. The District Court Judge Tracy D. Klinginsmith appointed an attorney who has an office across the street from the Pottawatomie County Courthouse in Westmoreland, Kansas, as the Administrator of the Estate of Mary Jane Quinn, Deceased, without any agreement with Jack P. Quinn or anyone else to my knowledge.

The District Court Judge Tracy D. Klinginsmith has issued untrue statements that Jack P. Quinn said that he would not pay the Irvin-Parkview Funeral Home. That is totally untrue I, Jack P. Quinn, have never said that I would not pay the Irvin-Parkview Funeral Home. In fact Jack P. Quinn has paid the Irvin-Parkview Funeral Home $1,665.00. Jack P. Quinn has paid the College Hill Skilled Nursing Center, 2423 Kimball, Manhattan, Kansas, $74,884.80. Jack P. Quinn has paid Learned's Prescription Shop, 110 South 4th Street, Manhattan, Kansas, $1,067.11. Jack P. Quinn has paid Kellstrom Pharmacy, 1860 Claflin Road, Manhattan, Kansas, $1,175.00.

In the year 1970, Jack P. Quinn suffered permanent damage to his right eye while being employed by the by Eby Construction Company even though Jack P. Quinn was wearing safety glasses a piece of steel still somehow got lodged in Jack P. Quinn's right eye. Kansas Workmens Compensation did not pay Jack P. Quinn one penny in damages. August 31, 1971, Jack P. Quinn was employed by the Dondlinger Construction Company at a construction site building a new addition to the McCall Pattern building on the

East edge of, Manhattan, Kansas, Jack P. Quinn had been working on the roof of the new addition. Jack P. Quinn went down the ladder off of the roof and turned to walk through the building when a labor foreman by the name of Lance McClure hit Jack P. Quinn on the head with a steel bar from behind. Jack P. Quinn regained consciousness four or six days later in the Wamego city Hospital in Wamego, Kansas.

The doctor that was treating me was doctor Bill Braden. I told doctor Braden that some one had tried to murder me*. Doctor Braden got very angry and practically called me a lair. Doctor Braden decided to check Jack P. Quinn's reflects by hitting my knee caps with a rubber mallet and my elbows but there was no reflect. Doctor Braden stated that there was severe nerve damage. I, Jack P. Quinn, have been unemployed since August 31, 1971. I, Jack P. Quinn, have been physically unable to work since August 31, 1971. No ambulance was called I was told they carried my body out of the building and tossed my body into my Chevrolet pickup and beat up Jimmy Quinn until he agreed to drive my Chevrolet pickup off of the construction site containing my body. They thought that Jack P. Quinn was

dead and Jack P. Quinn was very near death.

To my knowledge no report was ever filed in the city hospital in Wamego, Kansas, as to the condition of Jack P. Quinn when he was admitted to the city hospital in Wamego, Kansas, or how Jack P. Quinn had received the severe head injuries. Jack P. Quinn has been denied a trial by jury and Kansas Workmens Compensation has refused to pay one penny in damages. Kansas Workmens Compensation is unconstitutional because an injured person is denied a trial by jury.

On February 24, 1993, Jack P. Quinn filed suit in the United States District Court for the District of Kansas, as Plaintiff, against the State of Kansas and District Court Judge Tracy D, Klinginsmith of Pottawatomie County, Kansas, Defendants, Case No. 93-4041-RDR.

Jack P. Quinn is seeking Five Hundred Thousand Dollars in Actual Damages and Ten Millions Dollars in Punitive damages from the State of Kansas, Jack P, Quinn is requesting a trial by jury in the United States District Court for the District of Kansas.

Jack P. Quinn

Jack P. Quinn
908 Lincoln
Wamego, Kansas 66547-1542
PRO SE

APPENDIX

Mary Jane Quinn

A rosary service for Mary Jane Quinn, 95, will be held today at 7:30 p.m. at the Irvin-Parkview Funeral Home.

Mrs. Quinn, the wife of Charles W. Quinn of Wamego, died Oct. 16 at the College Hill Skilled Nursing Center. She was born Nov. 5, 1892, in Manhattan, and spent most of her life in the area.

She was married to Charles W. Quinn June 9, 1914, in Portland, Ore. He preceded her in death Oct. 13, 1962. Also preceding her in death were two sons, William Quinn, in 1983, and Thomas Quinn, in 1984; four brothers; one sister; and two grandsons.

Mrs. Quinn was a homemaker, and was a member of Seven Dolors Catholic Church and the Altar Society.

Survivors include two sons, Jerry Quinn, of Manhattan, and Jack Quinn, of Wamego; 22 grandchildren; 40 great-grandchildren; and two great-great-grandchildren.

Funeral services will be held at 10 a.m. Thursday at Seven Dolors Catholic Church.

Burial will be in Sunset Cemetery.

Memorial contributions may be made to the Manhattan Catholic Schools, in care of Irvin Parkview Funeral Home.

LAST WILL AND TESTAMENT

OF MARY JANE QUINN

I, MARY JANE QUINN, of Wamego, Pottawatomie County, Kansas, being of sound and disposing mind and memory, do hereby make, publish and declare this to be my Last Will and Testament, hereby revoking any and all former wills which I may have heretofore made.

FIRST: I direct my Executor, hereinafter named, to pay all of the just debts that I owe at the time of my death, and the cost and expense of my funeral, out of the assets of my estate, as promptly as possible after my death.

SECOND: I give and bequeath all of the personal property that I own at the time of my death, or to which I may be entitled, to my son, John Pedro Quinn, who is also known as Jack Quinn, and as Jack P. Quinn, and as John P. Quinn.

THIRD: I give and devise all of the interest that I own in the following described real estate, lying and situate in Pottawatomie County, Kansas, to-wit:

The Southwest Quarter (SW1/4), and the East Half (E

1/2) of Northwest Quarter (NW 1/4) of Section Thirty-four (34), Township Nine (9), Range Nine (9), East of the 6th P.M.,

to my sons, Jerry P. Quinn, Tom P. Quinn, Bill P. Quinn, and John Pedro Quinn, in equal shares, share and share alike.

FOURTH: All of the rest, residue and remainder of the real estate that I own at the time of my death, I give and devise to my son, John Pedro Quinn, who is also known by the various names set out in Paragraph two, above, to be his, absolutely.

FIFTH: I do hereby make, constitute and appoint my son, John Pedro Quinn, Executor of this, my Last Will and Testament, to serve without bond.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my signature to this, My Last Will and Testament at Wamego, Kansas, on this 14th day of November, 1966.

Mary Jane Quinn

Be It Remembered, that on this 14th day of November, 1966, the within and foregoing instrument of writing was signed in our presence by the Testatrix, MARY

JANE QUINN, who published and declared the same to be her Last Will and Testament, and we, and at her request, and in her presence, and in the presence of each other, have hereunto set our hands as witnesses thereto.

John E. Raug	Wamego, Kansas
Name	Address
Frank H. Mack	Wamego, Kansas
Name	Address

Filed 8:35 a.m., March 24, 1989

Patricia Campbell,

Clerk of District Court, Pottawatomie County, Kansas

IN THE DISTRICT COURT OF POTTAWATOMIE COUNTY, KANSAS

In the Matter of the Estate of MARY JANE QUINN, Deceased

Case No. 89 P 26

ORDER

On this 17th day of May, 1990, this matter comes before the Court on the pro se pleading of the executor, Jack P. Quinn, filed by him following allowance of the College Hill Skilled Nursing Center demand on November 30, 1989. College Hill appears by David Stutzman, its attorney. The executor, Jack P. Quinn, appears in person. J. R. Russell, attorney for the estate, does not appear but has communicated with the Court he will be filing a motion to withdraw as attorney for the executor. Also appearing are Jerry Quinn, Tom Tom Quinn and Frances Quinn.

Thereupon, the Court reviews the pro se pleading of Jack P. Quinn filed herein on March 27, 1990. The Court finds and concludes that same does not constitute an appeal from the Court's order allowing the claim of College Hill Skilled Nursing Center. Rather, the Court finds that it

constitutes a claim or demand by the executor in his personal capacity against the estate rather than in any official capacity as executor, for services he claims to have rendered his parents during their lives. The Court finds that on the face thereof, that same is not filed in proper form, nor is it timely filed. The Court grants Jack P. Quinn until June 15, 1990, to submit legal authority as to why he should be allowed to file same out of time, beyond four months from the date of the first published notice to creditors as provided in K.S.A. 59-2239, which was given herein on March 23, 1989.

On this 19th day of June, 1990, the Court again reviews the case file herein and finds that on June 14, 1990, Jack P. does not set forth any legal authority in support of his position that he should be allowed to file a demand herein for services he claims to have provided his parents during their lives. Rather, the Court finds that the pro se pleading filed by Jack P. Quinn on June 14, 1990, merely constitutes further argument in support of his position that the demand of College Hill should not have been allowed and that he has a claim for services to his parents that should be allowed. The Court finds the pleadings of Jack P. Quinn, filed herein on

March 27, 1990, and on June 14, 1990, are frivolous and hereby ORDERS same to be stricken from the case file. It further appears to the Court that the executor has failed to perform duties imposed upon him by law as executor and therefore the executor, Jack P. Quinn, is ORDERED to appear before this Court on the 5th day of July 1990, at the hour of 2:00 o'clock p.m., to show cause, if any he has, why he should not be removed as executor herein, all pursuant to the provisions of K.S.A. 59-1711. Dated: June 19, 1990.

Tracy D. Klinginsmith

District Judge

Certificate of Mailing

I hereby certify that I served a copy of the above and foregoing Order upon each of the following, by placing in the United States mail, postage prepaid, and addressed as follows, to-wit:

Mr. David L. Stutzman, 201-203, Union National Bank, Manhattan, Kansas, 66502

Mr. Jerry P. Quinn, 408 South 18th, Manhattan, Kansas, 66502

Mr. Tom Tom Quinn, 3620 W. 38th Street, Topeka, Kansas 6661

Ms. Sharon Nelson, 14809 Locust, Olathe, Kansas, 66062

Mr. Michael Quinn, 608 Montclair, Olathe, Kansas, 66062

Ms. Bonnie Quinn, Rural Route 1, St. George, Kansas, 66535

Mr. William Quinn, Rural Route 1, St. George, Kansas, 66535

Ms. Frances M. Quinn, 5641 Foxcroft Circle South, #1, Topeka, Kansas 66614

Ms. Charlotte Quinn; 834 7th Avenue S.W., Rochester, Minnesota, 55909

all done on this 19th day of June, 1990.

Patricia Campbell,

Clerk of the District Court

Deputy

I hereby certify that I served a copy of the above and foregoing Order upon Jack P. Quinn, by personal service on this ____ day of June, 1990, at _____.__.m.

Steven F. Harkness, Sheriff

Filed, June 19, 1990

Patricia Campbell, Clerk of the District Court

By Sara Helger, Deputy

IN THE DISTRICT COURT OF POTTAWATOMIE COUNTY, KANSAS

In the Matter of the Estate of MARY JANE QUINN, Deceased. Case No. 89 P 26

ORDER

Upon this 5th day of July, 1990, the above entitled matter comes before the Court on the Court's Order directing Jack P. Quinn, Executor, to appear before this Court and show cause if any why he should not be removed as Executor. Jack P. Quinn appears in person. Also appearing is Jerry P. Quinn.

Thereupon, the Court inquires of Jack P. Quinn to determine if he has heretofore paid claims allowed herein by the Court to be paid, namely to: Irvin-Parkview Funeral Home, College Hill Skilled Nursing Center, and Kellstrom Pharmacy. Mr. Quinn advises he has not paid same. The Court further inquires of Jack P. Quinn if he intends to pay the claims heretofore allowed by the Court, in the amounts allowed by the Court, and Jack P. Quinn advises with respect to the claim allowed in favor of College Hill Skilled Nursing Center, that he does not intend to pay said claim.

IT IS THEREFORE ORDERED pursuant to the provisions of K.S.A. 59-1711 that the Executor, Jack P. Quinn, having refused to perform the duties imposed upon him by law and the lawful orders of this Court, should be and hereby is removed as Executor of this estate.

IT IS FURTHER ORDERED that any compensation for his services herein as Executor should be and hereby are forfeited.

IT IS FURTHER ORDERED pursuant to the provisions of K.S.A. 59-705 (3) that it is in the best interest of this estate and all persons interested therein, that an independent person, not interested in said estate, should be appointed to succeed Jack P. Quinn as Administrator with the will annexed, de bonis non. The Court finds that Gary F. Conklin of Westmoreland, Kansas, is a suitable person to be appointed such Administrator, C.T.A., D.B.N., and that the said Gary F. Conklin shall have the same power and duties as his predecessor.

IT IS THEREFORE ORDERED that Letters of Administration, C.T.A., D.B.N. issue to the said Gary F. Conklin, upon the filing of his Oath and Bond in the sum of

$1,000.00.

Dated, filed and effective this 10th day of July, 1990.

Tracy D. Klinginsmith

District Judge

Certificate of Mailing

I hereby certify that I served a copy of the above and foregoing Order upon each of the following, by placing in the United States mail, first class postage prepaid, and addressed as follows, to wit:

David L. Stutzman, Arthur, Green, Arthur, Conderman & Stutzman

201-203 Union national Bank Tower, Manhattan, Kansas 66502

Jerry P. Quinn, 408 South 18th, Manhattan, Kansas 66502

Tom Tom Quinn, 3620 W. 38th Street, Topeka, Kansas 66610

Sharon Nelson, 14809 Locust, Olathe, Kansas 66062

Michael Quinn, 608 Montclair, Olathe, Kansas 6606

Bonnie Quinn, Rural Route 1, St. George, Kansas

66535

William Quinn, Rural Route l, St. George, Kansas 66535

Frances M. Quinn, 5641 Foxcroft Circle South #1, Topeka, Kansas 66614

Charlotte Quinn, 834 7th Avenue, S. W.. Rochester, Minnesota, 55909

Jack P. Quinn, 908 Lincoln, Wamego, Kansas 66547

Gary F. Conklin, Attorney at Law, P. O. Box 157, Westmoreland, Kansas 66547

all done on this 10th day of July, 1990.

PATRICIA CAMPBELL

Clerk of District Court

by Sara Helget, Deputy

Filed July 10, 1990

Patricia Campbell, Clerk of the District Court

by Sara Heglet, Deputy

To:

MR. JACK P. QUINN Patricia Campbell

908 LINCOLN Clerk of the District Court

WAMEGO, KANSAS 66547 Pottawatomie County

WESTMORELAND, KS. 66549

TELEPHONE 913 457-3392

Subject RE: ESTATE OF MARY JANE QUINN 89P26

Message

DEAR MR. QUINN;

IT HAS BEEN ORDERED BY THE COURT TO NOT ISSUE YOUR SUBPOENAS FOR MAY 17, 1990 AT 1:00 P.M. AS THIS IS A PRE-TRIAL, TO GET ALL ISSUES BEFORE THE COURT.

I AM RETURNING YOUR NAMES IN CASE YOU WANT TO USE THEM AT A LATER time.

Date 4-20-90 Signed: Patricia Campbell

CC: Jerry Quinn

60-503. Adverse possession. No action shall be maintained against any person for the recovery of real property who has been in open, exclusive and continuous possession of such real property, either under a claim knowingly adverse or under a belief of ownership, for a period of fifteen (15) years. This section shall not apply to any action commenced within one (1) year after the effective date of this act.

History: L.1963, ch.303,60-503; Jan. 1, 1964.

Amendment XI. Suits Against States

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

April 7, 1969

Mr. Erwin Scott
Register of Deeds
Westmoreland, Kansas

Re: Estate of Charles W. Quinn, Deceased.

Dear Mr. Erwin:

This estate was not probated, but for real estate title purposed we have secured a determination by the Inheritance Tax Division of the Department of Revenue of the State of Kansas, that there was no inheritance tax due in this estate.

Please record the enclosed "Order" in your office. I am enclosing my check in the amount of $3.00 which I trust will cover the fee charged by your office; and please send a receipt. Thanks.

Sincerely

Richard M. Pugh

ALVIN R. SPRINGER

RICHARD D. ROGERS

LAWYERS

February 3, 1950

Received of Mrs. Charles Quinn the sum of $725.00 to be used to purchase Francis L. Troyer's interest in the Quinn farm in the Partion Action that is pending in the District Court of Pottawatomie County, Kansas. Payment should also be paid on the court costs.

Richard D. Rogers

United States District Court

DISTRICT OF KANSAS

JUDGMENT IN A CIVIL CASE

JACK P. QUINN, Plaintiff,

vs.

STATE OF KANSAS and DISTRICT

JUDGE TRACY D. KLINGINSMITH, Defendants.

CASE NUMBER: 93-4041-RDR

( ) Jury Verdict. This action came before the Court for a trial by jury. The issues nave been tried and the jury has rendered its verdict.

(x) Decision by Court. This action came before the Court. The issues nave been considered and a decision has been rendered.

IT IS ORDERED AND ADJUDGED that the motion of defendants to dismiss is granted.

(ENTERED ON THE DOCKET 04 /06 /93)

April 6, 1993 Ralph L. DeLoach

Date Clerk

(By) Deputy Clerk Filed April 6, 1993-Ralph L DeLoach

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF KANSAS

JACK P. QUINN,Plaintiff,

vs.

STATE OF KANSAS and DISTRICT JUDGE TRACY D. KLINGINSMITH, Defendants.

Case No. 93-4041-RDR

MEMORANDUM AND ORDER

This case is now before the court upon defendants' motion to dismiss. Plaintiff is suing defendants State of Kansas and State District Judge Tracy D. Klinginsmith for certain actions taken by Judge Klinginsmith in a probate action in the District Court of Pottawatomie, Kansas—In re Mary Jane Quinn, Case No. 89 P 26.

Defendants seek dismissal of this case upon immunity grounds. The court finds defendants' motion to be well-founded. Under the Eleventh Amendment to the Constitution, states cannot be sued in federal court absent consent to the suit by the state. Pennhurst State School Hospital v. Halderman, 465 U.S. 89, 100 (1984). There has been no consent to suit in this case. Therefore, the State of Kansas

must be dismissed as a defendant.

It is also well-established that judges are immune from being sued for damages for acts committed within their judicial jurisdiction. Stump v. Sparkman, 435 U.S. 349 (1978). The actions by Judge Klinginsmith, which are the subject of this case, were taken in the exercise of his jurisdiction. Accordingly, Judge Klinginsmith is immune from being sued by plaintiff for damages.

Plaintiff's "remedy" for any objection to the rulings of Judge Klinginsmith was to timely appeal his rulings to the Kansas Court of Appeals. This court cannot entertain such "appeals" in the guise of an action for damages. Nor can a jury consider such actions which do not state a valid claim under the law.

The motion to dismiss is granted.

IT IS SO ORDERED.

Dated this 6th day of April, 1993 at Topeka, Kansas.

Richard D. Rogers

United States District Judge

Filed: April 6 1993, District Court by Ralp L. Delaoch, at Topeka, Kansas.

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF KANSAS

JACK PEDRO QUINN, Plaintiff,

vs.

STATE OF KANSAS, et al., Defendants.

Case No. 93-4041-RDR

ORDER FOR SCHEDULING CONFERENCE

A Scheduling Conference pursuant to Fed. R. Civ. P. 16 (b) will be held on the 12th day of May, 1993, at 11:00 o'clock, a.m., in the Magistrate Judge's Courtroom, Room 470, 444 S.E. Quincy, Topeka, Kansas. All counsel and unrepresented parties shall be present at the conference.

Compliance with D. Kan. Rule 404 is required prior to and at the time of the conference. At least one of the attorneys participating for each party shall be thoroughly familiar with the case, shall be prepared to discuss the claims and defenses of the parties, and shall have authority to enter into stipulations and to make admissions regarding all matters identified in Fed. R. Civ. P. 16 (c) .

In order to expedite disposition of the case, a

scheduling order will be issued by the court following the conference, and counsel should be prepared to discuss the following matters:

1. Time Limits

   a. to join other parties and to amend pleadings

   b. to file motions to dismiss, for summary judgment, and other dispositive motions

   c. to complete discovery (See D. Kan. Rule 210, requiring that discovery in most civil cases be completed within four months)

   d. to identify witnesses and exhibits to designate expert witnesses

2. Scheduling the final pretrial conference

3. The possibilities of settlement

4. Simplification of issues and elimination of frivolous claims and defenses

5. Simplification of discovery, obtaining admissions, informal production of documents, avoidance of unnecessary discovery

6. Disposition of any pending nondispositive motions

7. Other case management issues and issues which may aid in the ultimate disposition of the case

The schedules established at the conference will not be modified except upon leave of court, for good cause shown.

Counsel and the parties shall notify other counsel entering their appearance in the case after this date, of this conference.

Copies of this order shall be mailed to all counsel and unrepresented parties.

IT IS SO ORDERED.

Dated this 21st day of April, 1993, at Topeka, Kansas.

Ronald C. Newman

U.S. Magistrate Judge

Filed April 22, 1993 by Masters, Deputy Clerk

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF KANSAS

JACK PEDRO QUINN, Plaintiff,

vs

STATE OF KANSAS, et al., Defendants

Case No. 93-4041-RDR

ORDER

On April 21, 1993, the court issued an Order for a Scheduling Conference to be held on the 12th day of May, 1993, at 11: 00 o'clock, a.m., in the Magistrate Judge's Courtroom, Room 470, 444 S.E. Quincy, Topeka, Kansas.

It has been brought to the court ' s attention that this case was dismissed on April 6, 1993. Therefore, the Scheduling Conference is canceled.

Copies of this order shall be mailed to all counsel and unrepresented parties.

IT IS SO ORDERED.

Dated this 26th day of April, 1993, at Topeka, Kansas.

Ronald C. Newman, U.S. Magistrate Judge

US. Dist Ct Filed April 26, 1993

Jack Pedro Quinn, Esq.

908 Lincoln

Wamego, KS 66547-1542

Re: 5:93-cv-04041

UNITED STATES COURT OF APPEALS

TENTH CIRCUIT

JACK PEDRO QUINN, Plaintiff-Appellant

vs.

STATE OF KANSAS and

DISTRICT JUDGE TRACY D. KLINGINSMITH,

Defendants-Appellees.

No. 93-3122

D.C. No. 93-CV-4041 (D.; Kan.)

ORDER AND JUDGMENT*

Before TACHA, BALDOCK and KELLY, Circuit Judges.**

Mr. Quinn sued the State of Kansas and a state district judge for damages claiming he was deprived of the right to a jury trial concerning various claims in a probate action, In re Estate of Mary Jane Quinn, 89 P 26 (Pottawatomie County, Kan. D. Ct.). The federal district court granted the Defendants' motion to dismiss because the State has Eleventh Amendment immunity from a suit for damages in federal court, Puerto Rico Aqueduct and Sewer Auth. v.

Metcalf & Eddy Inc., 113 S. Ct. 684, 687-88 (1993), and the state district judge has absolute judicial immunity, Stump v. Sparkman,

* This order and judgment has no precedential value and shall not be cited, or used by any court within the Tenth Circuit, except for purposes of establishing the doctrines of the law of the case, res judicata, or collateral estoppel. 10th Cir. R.

** After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1.9. The case therefore is ordered submitted without oral argument.

435 U.S. 349, 364 (1978), for actions taken in his judicial capacity. The district court' s judgment is AFFIRMED .

Entered for the Court

Paul J. Kelly, Jr.

Circuit Judge

Filed US Court of Appeals July 27, 1993

Filed August 20, 1993, Ralph L. DeLoach, Clerk

UNITED STATES COURT OF APPEALS

TENTH CIRCUIT

OFFICE OF THE CLERK

C404 UNITED STATES COURTHOUSE

DENVER, COLORADO 80924

(303) 844-3157

ROBERT L HOECKER, CLERK

PATRICK FISHER, CHIEF DEPUTY

August 18, 1993

Mr. Ralph L. DeLoach

Clerk

United States District Court for the District of Kansas

444 S. E. Quincy

Room 490

Topeka, KS 66683

Re: 93-3122, Quinn v. state of Kansas

Lower docket: 9 3-CV-4 041

Dear Mr. DeLoach:

In accordance with Fed. R. App. P. 41, I enclose a

certified copy of the court's order and judgment, which constitutes the mandate in the subject case. By direction of the court, the mandate shall be filed immediately in the records of the trial court or agency.

The clerk will please acknowledge receipt of this mandate by file stamping and returning the enclosed copy of this letter. Any original record will be forwarded to you at a later date.

Please call this office if you have questions .

Sincerely,

ROBERT L. HOECKER

Clerk

By: Jim Powers

Deputy Clerk

RLH: j tp

CC : Jack Pedro Quinn

Carl A. Gallagher, Asst. Attorney Gen.

POTTAWATOMIE COUNTY, WESTMORELAND, KS

66549

LINDA HORGAN, COUNTRY TREASURER

1991 REAL ESTATE PROPERTY TAX STATEMENT

OWNER - CHARLES W. QUINN ET AL 3338, 3340

	APPRAISED	ASSESSED	TAX
AG LAND	13110 @30%	3933	543.49

TOTAL DUE: $543.49

RECEIPT NUMBER: 17741

SGT4 - 34-09-09 SW/4 & 3/2 OF NW/4

193 - NYR - 2383400000007000

MIL LEVY138.186

QUINN, JOHN P.

908 LINCOLN

WAMEGO, KS 66547

236.40 ACRES APPRAISED

85.26 COUNTY

21.53 TWP/ROAD

405.18 SCHOOL

31.52 OTHER

PAID BY: Jack Quinn PAID Apr 08/92

Cash Received: 2720.25

Total Due: 2713.23

Change: 7.02

REAL ESTATE PROPERTY TAX SALE REDEMPTION CERTIFICATE

POTTAWATOMIE COUNTY
COUNTY COURTHOUSER
WESTMORELAND, AKANSAS 66549

DATE: April 8, 1992 (PAID Apr 08 92)
SALE DATE: 9/31/91 TAX SALE NO. 90521
STMT# 17717 OWNER # 3338

REDEEMER: CHARLES W. QUINN ET AL
WAMEGO, KS 66547

LOCATION: NYR - SGT4
SW/4 & E/2 OF NW/4 34-09-09
KANS PTCO STGT U323 B323 RLIB WS45 FR10 RHSY
VALUATION: 3,900
TAX RATE: 404.04
AD VAL TAX: 533.61
SPECIAL TAX: .00

TOTAL TAX: 533.61

AMOUNT PAID: .00

	FEES AND INTEREST	TAX
NET TAX DUE:	533.61	533.61
INTEREST ON FIRST HALF TAX FROM DECEMBER 20 TO JUNE 20 (79-2004)	24.01	24.01

TOTAL TAX AND ACCRUED INTEREST: 557.62

INTEREST FROM JUNE 20, (79-2004): 80.57

FEES: LIST FOR PRINTER (928-104): 1.00

PUBLICATION (79-2303) 15.00 16.00

TOTAL COLLECTED $654.19

Linda Horgan, Treasurer

County Treasurer

Paid by Jack Quinn

REAL ESTATE PROPERTY TAX SALE REDEMPTION

CERTIFICATE

POTTAWATOMIE COUNTY

COUNTY COURTHOUSER

WESTMORELAND, KANSAS 66549

DATE: April 8, 1992 (PAID Apr 08 92)

SALE DATE: 9/04/90 TAX SALE NO. 89379

STMT# 17716 OWNER # 3338

REDEEMER: CHARLES W. QUINN ET AL

WAMEGO, KS 66547

LOCATION: NYR - SGT4

SW/4 & E/2 OF NW/4 34-09-09

KANS PTCO STGT U323 B323 RLIB WS45 FR10 RHSY

VALUATION: 3,900

TAX RATE: 124.98

AD VAL TAX: 487.42

SPECIAL TAX: .00

TOTAL TAX: 487.42

AMOUNT PAID: .00

	FEES AND INTEREST	TAX
NET TAX DUE:	487.42	487.42
INTEREST ON FIRST HALF TAX FROM DECEMBER 20		
TO JUNE 20 (79-2004)	14.62	14.62
TOTAL TAX AND ACCRUED INTEREST:		502.04
INTEREST FROM JUNE 20, (79-2004): 129.23		
FEES: LIST FOR PRINTER (928-104): 1.00		
PUBLICATION (79-2303)15.00		16.00
TOTAL COLLECTED: 647.27	159.85	487.42

Linda Horgan, Treasurer

County Treasurer

Paid by Jack Quinn

REAL ESTATE PROPERTY TAX SALE REDEMPTION

CERTIFICATE

POTTAWATOMIE COUNTY

COUNTY COURTHOUSER

WESTMORELAND, AKANSAS 66549

DATE: April 8, 1992 (PAID Apr 08 92)

SALE DATE: 9/05/89 TAX SALE NO. 88214

STMT# 17889 OWNER # 338

REDEEMER: CHARLES W. QUINN ET AL

WAMEGO, KS 66547

LOCATION: NYR - SGT4

SW/4 & E/2 OF NW/4 34-09-09

KANS PTCO STGT U323 B323 RLIB WS45 FR10 RHSY

VALUATION: 5040.00

TAX RATE: 106.96

AD VAL TAX: 539.08

SPECIAL TAX: .00

TOTAL TAX: 539.08

AMOUNT PAID: .00

	TOTAL	FEES AND INTEREST	TAX
NET TAX DUE:		539.08	539.08
INTEREST ON FIRST HALF TAX FROM DECEMBER 20 TO JUNE 20 (79-2004):	24.26		
TOTAL TAX AND ACCRUED INTEREST			563.34
INTEREST FROM JUNE 20, (79-2004):	284.20		
FEES: LIST FOR PRINTER (928-104)	1.00		
PUBLICATION (79-2303)	5.00	6.00	
TOTAL COLLECTED	853.54	314.46	539.08

Linda Horgan, Treasuere

County Treasurer

Paid by Jack Quinn

Department of Health and Human Services Form Approved

Health Care Finance Administration OMB No. 0938-035

HOME HEALTH CERTIFICATION AND PLAN OF TREATMENT

1.Patient's HI Claim No.

2.SOC Date

3.Certification Period

4.Medical Record No.

5.Provider

From: To:

6.Patient's Name and Address Jack Quinn

908 Lincoln

Wamego, KS

7.Provider's Name and Address.

Pottawatomie County Home Health

Health Agency 457-3719

Box H Westmoreland Kansas 66549

8. Date of Birth:

9.Sex: M

10. Medications: Done/ Frequency/Route (N)ew (C)hanged

Fluconazsle 200 mg po Daily

11. ICD-9-CM Principal Diagnosis: Fungal Meningitis

12. ICD-9-CMSurgical Procedure

13. ICD-9-CMOther Pertinent Diagnoses:

Remote Head Injury, severe

14.DME and Supplies

15. Safety Measures:

16. Nutritional Req. Regular Diet

17. Allergies:

18.A. Funtional Limitations

1		Amputation
2		Bowel/Bladder (Incontinence)
3		Contracture
4		Hearing
5		Paralysis
6	X	Endurance
7		Ambulation
8		Speech
9		Legally Blind
A		Dyspnea With Minimal Exertion
B		Other(Specify)

18.B. Activities Permitted

1		Complete Bedrest		
2		Bedrest BRP		
3	X	Up As Tolerated		
4		Transfer Bed/Chair		
5		Exercises Prescribed		
6		Partial Weight Bearing		
7		Independent At Home		
8		Crutches		
9		Cane		
A		Wheelchair	B	Walker
C		No Rest	D	Other

19.Mental Status:

1	X	Oriented
2		Comatose
3		Forgetful
4		Depressed
5		Disoriented
6		Lethargic
7		Agitated
8		Other

20. Prognosis:

1 Poor

2 Guarded

3 X Fair

4 Good

5 Excellent

21. Orders for Discipline and Treatments(Specify Amont/ Frequency/Duration)

Monitor weight, vital signs and general status.

22.Goals/Rehabilitation Potential/Discharge Plans

Self Care - Independent Living.

23. Verbal Start of Care Nurse's

Signature and Date Where Applicable:

24. Physician's Name and Address: Larry W. Rumans,MD

631 Horne, Suite 420

Topeka, KS 66606

234-8405

25. Date HHA Received Signed POT

26. I (x) certify ( )recertify that the above home health services are required and are authorized by me with written plan for treatment which will be periodically reviewed by me. This patient is under my care, to his home, and is in

need of intermittent skilled nursing care and/or physical or speech therapy or has been funished home health services based on such a needed no longer has a need for such care or therapy continues to need occupational therapy.

27.Attending Physician's Signature

(Required on 485 Kept on File in Medical Records of HHA)

Form HCFA-468 (U4) (4-87)

DISCHARGE INSTRUCTIONS

Stormont-Vail

REGIONAL MEDICAL CENTER

Name of Patient: QUINN, JOHN JACK P

Room: 558-A

Date: 7-3-91

DISCHARGE MEDICATIONS

As Instructed:	By Physician
Medicaiton Name	Fluconazole
Dosage	200mg
Time	9AM
Reasons for Taking	Antifulgul medication
Other Information:	Side Effects:

nausea - vomiting, headach, skin rash

*Additional meds are listed on :Supplemental Discharge Medications" Form.

FOOD/DRUG INTERACTIONS: The following classes of medications are known to react with certain foods. When circled, be aware that your physician has prescribed a medication in that class of drugs and that an information card will be given to you by your nurse.

NONE

Avoidance of ALCOHOL while taking any medicaiton is strongly recommended.

HOME CARE INSTRUCTIONS:

Diet:as tolerated

Wound Care and/or Cast Care:

Activity:as tolerated

Follow-up Appointment: 8/14/91 at Stormont Vail Office

Phone Number:2348405 -Dr Rumans

Reasons to Call Physician: Any questions -

If you start having a fever.

Other Discharge Recommendations: You are scheduled to be admitted on an outpatient basis on Aug. 8th. Go to admissions on that day.

DISCHARGE CHECKLIST:

Destination:

Mode of Discharge: w/c

Time:

Method of Transportation: Car

Accompanied by (specify name): family members

Return of Valuables: None

Return of Personal Belongings: None

Medications Returned: (list)

**Signature of Nurse Completing Form and Instructions:

(signed by nurse-handwritting illegible)

I have read, understand and have received information on my medication(s) and home care.

**Signature of Patient or Significant Other: Jack P. Quinn

Land Auction

Thursday, August 5, 1993, 10a.m.

Pottawatomie County Courthouse

Westmoreland, Kansas

Legal: The Southwest Quarter (SW 1/4) and the East Half of the Northwest Quarter (E1/2NW1/4) of Sectin Thirty-four (34), Township Nine (9), Range Nine (9) East of the Sixth (6th) P.M. Pottawatomie Co. (240 acres ML)
From Wamego, West on US 24, 5 miles to Vineyard Road, then North 1/2 mile.

Terms: Payment in full must be made at the conclustion of the Auction to the Clerk of the District Court. Purchaser shall receive possession of the Real Estate upon the Court's confirmation of sale and issuance of a Sheriff's deed in partition. The Real Estate will sell without right of redemption. 1992 Taxes were $365.90. Buyer will pay all of 1993 Taxes. Neither Title Insurance nor Abstract of Title shall be provided to the Purchaser.

Description: Presently pasture land. This tract of land may have excellent potential for deveolopment. Rural water is

close by.

Court Ordered Sheriff's Sale

Conducted by;

Pitney Realty and Auctions

Jerry Pitney, Broker-Auctioneer

913-456-2536

Gary F. Conklin, Administrator for the Estate of Mary Jane Quinn.